

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 494 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 6-1.1-41-1, AS AMENDED BY P.L.129-1999,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2003]: Sec. 1. This chapter applies to establishing and
- 6 imposing a tax levy for cumulative funds under the following:
- 7 (1) IC 3-11-6.
- 8 (2) IC 8-10-5.
- 9 (3) IC 8-16-3.
- 10 (4) IC 8-16-3.1.
- 11 (5) IC 8-22-3.
- 12 **IC 13-26-15.**
- 13 (6) IC 14-27-6.
- 14 (7) IC 14-33-21.
- 15 (8) IC 16-22-4.
- 16 (9) IC 16-22-8.
- 17 (10) IC 36-8-14.
- 18 (11) IC 36-9-4.
- 19 (12) IC 36-9-14.
- 20 (13) IC 36-9-14.5.
- 21 (14) IC 36-9-15.
- 22 (15) IC 36-9-15.5.
- 23 (16) IC 36-9-16.
- 24 (17) IC 36-9-17.

- 1 ~~(+8)~~ IC 36-9-17.5.
- 2 ~~(+9)~~ IC 36-9-26.
- 3 ~~(+20)~~ IC 36-9-27.
- 4 ~~(+21)~~ IC 36-10-3.
- 5 ~~(+22)~~ IC 36-10-4.
- 6 ~~(+23)~~ IC 36-10-7.5.
- 7 ~~(+24)~~ Any other statute that specifies that a property tax levy may
- 8 be imposed under this chapter."

9 Page 2, between lines 5 and 6, begin a new paragraph and insert:
 10 "SECTION 3. IC 13-26-5-9 IS ADDED TO THE INDIANA CODE
 11 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 12 1, 2003]: **Sec. 9. The board of trustees of a district may establish a**
 13 **cumulative improvement fund for the district and impose a special**
 14 **benefits levy for the fund in conformity with IC 13-26-15.**

15 SECTION 4. IC 13-26-6-5 IS ADDED TO THE INDIANA CODE
 16 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 17 1, 2003]: **Sec. 5. (a) As the result of:**

- 18 (1) **experience gained in the construction or operation of the**
- 19 **works of a district; or**
- 20 (2) **changed conditions;**

21 **the district plan may be amended in any way as long as the**
 22 **amended plan conforms to the other requirements of this article.**

23 (b) **An amendment to a district plan is effective when the**
 24 **department approves it. If the department disapproves an**
 25 **amendment to a district plan, the department may recommend**
 26 **revisions and authorize the district to proceed with a revised plan.**

27 (c) **A district is not dissolved if the department does not approve**
 28 **an amendment to the district plan.**

29 SECTION 5. IC 13-26-7-3 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. When a district**
 31 **receives revenue for its operations, a special benefits levy under**
 32 **IC 13-26-15 (to the extent an advance is for a purpose of the**
 33 **cumulative improvement fund), or proceeds from the sale of bonds,**
 34 **the district shall repay any money advanced to the advancing agency**
 35 **in the manner agreed.**

36 SECTION 6. IC 13-26-10-1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. A district may obtain**
 38 **money for the payment of the costs of the works or an improvement,**
 39 **enlargement, or extension of the works by the issuance of revenue**
 40 **bonds of the district. The principal and interest of the revenue bonds**
 41 **must be paid by either of the following methods:**

- 42 (1) **Solely from the net revenues of the works.**
- 43 (2) **Against the real property of the district in anticipation of**
 44 **the collection of a special benefits tax levy under IC 13-26-15.**
 45 **Bonds issued against the real property of the district may be**
 46 **paid in part by revenues derived from reasonable charges for**

1 **services or property produced incident to the operation of the**
 2 **district.**

3 SECTION 7. IC 13-26-10-2 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A district obtaining
 5 a loan from the federal government or an agency of the federal
 6 government may issue obligations under this article to the federal
 7 government or agency to evidence the indebtedness without advertising
 8 for or receiving bids. The obligations:

- 9 (1) are payable solely from the net revenues of the works **or the**
 10 **special benefits tax levy under IC 13-26-15, or both, as**
 11 **specified in the loan agreement; and**
 12 (2) may be made of equal priority or subordinate to other ~~revenue~~
 13 bonds issued or to be issued under this article or IC 13-3-2 (before
 14 its repeal).

15 SECTION 8. IC 13-26-10-3 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Revenue~~ Bonds may:

- 17 (1) bear interest, at a rate or rates not exceeding the maximum
 18 determined by the board, that is payable annually or at shorter
 19 intervals;
 20 (2) mature at a time or times to be determined by ordinance; and
 21 (3) be made redeemable before maturity at the option of the
 22 district, to be exercised by the board, at not more than the par
 23 value and a premium not exceeding five percent (5%) under terms
 24 and conditions that are fixed by the ordinance authorizing the
 25 issuance of the bonds.

26 SECTION 9. IC 13-26-10-4 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The principal and
 28 interest of ~~revenue~~ bonds may be made payable in any lawful medium.

29 The ordinance must do the following:

- 30 (1) Determine the form of the bonds, including the interest
 31 coupons, if any, to be attached.
 32 (2) Fix the denomination or denominations of the bonds and the
 33 place or places of payment of the principal and interest, which
 34 may be any bank or trust company within or outside Indiana.

35 SECTION 10. IC 13-26-10-5 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) **The Subject to**

37 **subsection (e)**, revenue bonds must contain a statement on the face of
 38 the bonds that the district is not obligated to pay the bonds or the
 39 interest on the bonds except from the special fund provided from the
 40 net revenues of the works.

- 41 (b) All bonds are negotiable instruments.
- 42 (c) The bonds and interest are exempt from all state, county, and
 43 municipal taxation.
- 44 (d) The bonds may be registered in the name of the owner:
 45 (1) as to principal alone; or
 46 (2) as to both principal and interest.

Fully registered bonds may be made convertible to coupon bonds at the option of the registered owner.

(e) The board may covenant with the holders of bonds to pay:

(1) a certain percentage of principal and interest from revenue; and

(2) a certain percentage from the special benefits levy imposed under IC 13-26-15.

SECTION 11. IC 13-26-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Subject to subsection (b), the treasurer of the district shall sell the ~~revenue~~ bonds in a manner and at a price that is determined to be in the best interests of the district.

(b) If the bonds are sold at public sale, the bonds shall be sold in accordance with IC 5-1-11 as IC 5-1-11 applies to counties.

SECTION 12. IC 13-26-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A surplus of ~~revenue~~ bond proceeds over the cost of the works shall be paid into the sinking fund provided by this article.

(b) If the proceeds of the bonds, by error of calculation or otherwise, are less than the cost of the works, additional bonds may in the same manner be issued to provide the amount of the deficit. Unless otherwise provided in:

(1) the ordinance authorizing the issuance of the bonds first issued; or

(2) the trust indenture authorized by this article or IC 13-3-2 (before its repeal);

the additional bonds are considered to be of the same issue and are entitled to payment from the same fund, without preference or priority of the bonds first issued.

SECTION 13. IC 13-26-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. Before the preparation of the definite ~~revenue~~ bonds, temporary revenue bonds under the same restrictions may be issued with or without coupons, exchangeable for definite revenue bonds upon the issuance of the latter.

SECTION 14. IC 13-26-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. Subject to an ordinance or trust indenture pertaining to outstanding bonds, additional bonds ~~payable from the revenues of the works~~ may be authorized and issued in accordance with this article for the purpose of improving, enlarging, or extending works acquired or constructed under this article or IC 13-3-2 (before its repeal).

SECTION 15. IC 13-26-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The board may secure the ~~revenue~~ bonds by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside Indiana.

1 However, a trust indenture may not convey or mortgage all or any part
2 of the works.

3 SECTION 16. IC 13-26-10-14 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The ordinance
5 authorizing the ~~revenue~~ bonds and fixing the details of the revenue
6 bonds may provide that the trust indenture contain reasonable and
7 lawful provisions for protecting and enforcing the rights and remedies
8 of the bondholders, including covenants setting forth the duties of the
9 district and the board in relation to the following:

- 10 (1) The construction or acquisition of the works.
- 11 (2) The improvement, operation, repair, and maintenance of the
- 12 works.
- 13 (3) The issuance of bonds, including the custody, safeguarding,
- 14 and application of all money.

15 SECTION 17. IC 13-26-10-17 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. Unless this article
17 otherwise provides, the board may provide by ordinance or in the trust
18 indenture for the payment of:

- 19 (1) the proceeds of the sale of the bonds; ~~and~~
- 20 (2) the revenues of the works; **and**

21 **(3) the proceeds of a special benefits tax levy;**
22 to the officer, board, or depository that the board determines for the
23 custody of the money and for the method of disbursement, with
24 safeguards and restrictions that the board determines.

25 SECTION 18. IC 13-26-10-18 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) At or before the
27 time of issuance of the ~~revenue~~ bonds, the board shall by ordinance
28 create a sinking fund for the payment of the following:

- 29 (1) The bonds.
- 30 (2) The interest on the bonds.
- 31 (3) The charges of banks or trust companies for making payment
- 32 of the bonds or interest.

33 (b) The board shall set aside and pledge **any part of a special**
34 **benefits tax levy committed to the bond issue and** the net revenues
35 of the works remaining after the payment of the reasonable expense of
36 operation, repair, and maintenance of the works for payment of the:

- 37 (1) principal of and interest on all bonds payable from the
- 38 revenues of the works, to the extent necessary for that purpose;
- 39 and
- 40 (2) necessary fiscal agency charges for paying the principal and
- 41 interest of the bonds.

42 (c) The ordinance may also provide for the accumulation of
43 reasonable reserves in the sinking fund:

- 44 (1) as a margin for safety and a protection against default; and
- 45 (2) for the payment of premiums upon bonds retired by call or
- 46 purchase as provided by this article.

SECTION 19. IC 13-26-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The holder of ~~revenue~~ bonds or attached coupons and the trustee, if any, except to the extent the rights given may be restricted by the ordinance authorizing issuance of the bonds or by the trust indenture, may, by civil action, protect and enforce rights granted:

- (1) by this article or IC 13-3-2 (before its repeal); or
- (2) under the ordinance or trust indenture;

to be performed by the district issuing the bonds or by the board or any officer, including the making and collecting of reasonable and sufficient charges and rates for services provided by the works.

(b) If there is failure to pay the principal or interest on any of the ~~revenue~~ bonds on the date named for payment, and upon application by a bondholder or a trustee, any court having jurisdiction to appoint receivers shall appoint a receiver to administer the works on behalf of the district and the bondholders or trustee. A receiver may do the following:

- (1) Charge and collect rates sufficient to provide for the payment of the expenses of operation, repair, and maintenance.
- (2) **Impose and collect a special benefits levy as provided in IC 13-12-15.**
- (3) Pay any ~~revenue~~ bonds and interest outstanding.
- (3) (4) Apply the revenues in conformity with this article and the ordinance or trust indenture.

SECTION 20. IC 13-26-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 15. Cumulative Improvement Fund

Sec. 1. As used in this chapter, "fund" refers to a cumulative improvement fund established under this chapter.

Sec. 2. (a) A district may establish a cumulative improvement fund under IC 6-1.1-41 to provide money for:

- (1) the construction, additional construction, or repair of works of improvement;
- (2) the maintenance of works of improvement; or
- (3) the financing or refinancing of obligations incurred for the construction, additional construction, or repair of works of improvement.

(b) Money in the fund may be used to pay part or all of an obligation that is incurred before or after the fund is established. However, an expenditure from the fund may be made for a purpose described in subsection (a) only to the extent that the district:

- (1) has authority under this article to make the expenditure; and
- (2) states in its district plan or in an amendment to its district plan that the expenditure is a purpose of the fund.

1 **Sec. 3. (a) The board of a district that determines to establish a**
 2 **fund shall state this determination in the district plan or in any**
 3 **part or amendment to the plan. Notice to this effect shall be made**
 4 **a part of all notices concerning approval of the district plan or a**
 5 **part of or amendment to the plan, including implementation of the**
 6 **plan. The plan must specify the:**

- 7 (1) works of improvement;
- 8 (2) additions to the works of improvement; or
- 9 (3) repair of the works of improvement;

10 **that are to be financed by the fund or for which debt is being**
 11 **retired.**

12 **(b) When:**

- 13 (1) the district plan;
- 14 (2) part of the district plan; or
- 15 (3) an amendment to the district plan;

16 **is approved by the department, the fund is established.**

17 **Sec. 4. (a) To provide money for the fund, the board may place**
 18 **in the fund the following:**

- 19 (1) Gifts or grants from a person or state or federal agency.
- 20 (2) Receipts of revenue from the sale of services or property
- 21 produced incident to the accomplishment of the purpose for
- 22 which the district is organized.
- 23 (3) Any other form of miscellaneous receipt, including tap-in
- 24 fees and connection fees.
- 25 (4) Levy of a special benefits tax in accordance with this
- 26 chapter.

27 **(b) The board shall state in the district plan or part of or**
 28 **amendment to the plan the source or combination of sources that**
 29 **will finance the fund.**

30 **Sec. 5. With the approval of the fiscal body of each political**
 31 **subdivision appointing at least one (1) member to the board, the**
 32 **board may levy a special benefits tax in compliance with**
 33 **IC 6-1.1-41 as a special assessment on all the real property in the**
 34 **district. The board shall file with the district plan or part of or**
 35 **amendment to the plan:**

- 36 (1) the approval of the department of local government
- 37 finance; and
- 38 (2) any action taken to reduce or rescind the tax levy.

39 **Sec. 6. The special benefits tax may not exceed six and**
 40 **sixty-seven hundredths cents (\$0.0667) on each one hundred**
 41 **dollars (\$100) of assessed valuation of real property in the district.**
 42 **However, a special benefits tax of less than ten dollars (\$10) on a**
 43 **parcel may be increased to not more than ten dollars (\$10) on a**
 44 **parcel. The district may require a statement processing charge on**
 45 **a special benefits tax statement. The statement processing charge**
 46 **is considered a part of the tax liability.**

47 **Sec. 7. The benefits received by each taxpayer paying the special**

benefits tax shall be treated as equal to the amount of the special benefits tax paid by the taxpayer.

Sec. 8. A tax levy under section 5 of this chapter may be reduced or rescinded by an approved amendment to the district plan.

Sec. 9. (a) The budget of a district payable from the fund:

(1) must be prepared and submitted:

(A) at the same time;

(B) in the same manner; and

(C) with notice;

as required by statute for the preparation of budgets by municipalities; and

(2) is subject to the same review by:

(A) the county board of tax adjustment; and

(B) the department of local government finance;

as is required by statute for the budgets of municipalities.

(b) The budget shall be certified to the auditor of the county where the district maintains its principal office. Notice must be published in each county having land in the district. Any taxpayer in the district is entitled to be heard before the county board of tax adjustment having jurisdiction.

Sec. 10. (a) Upon approval by the department of local government finance, the board shall certify the tax levy to the auditor of each county having real property in the district.

(b) The auditor of each county shall have the levy entered into the tax records of the county treasurer for collection.

(c) The county treasurer shall collect the tax at the same time as other property taxes are collected.

(d) After collection, in June and December, the auditor of each county shall issue a warrant on the county treasurer to transfer the money collected to the board.

Sec. 11. The special benefits tax levied by a district is a primary lien on real property in the district equal to other taxes imposed on real property. The same provisions of other taxes regarding collections, penalties, and sale of property for delinquencies apply to this tax.

Sec. 12. A district is not considered a municipal corporation with respect to limitations on the amount of the districts indebtedness irrespective of how that indebtedness is secured in a pledge of the district.

Sec. 13. If:

(1) there is a savings resulting from the cost of the works of improvement that are provided in the district plan, including the necessary engineering, legal, and administrative fees, being less than the proceeds of a bond issue or other borrowing to pay the costs;

(2) the district plan is amended to provide that the excess money may be placed in the fund for further necessary works

1 of improvement or additions to those works constructed with
 2 those proceeds; and

3 (3) the use of the excess money is not restricted by the terms
 4 of the bond issue or other borrowing;

5 the excess money may be placed in the fund for the purposes
 6 described in subdivision (2).

7 **Sec. 14. If a federal or state agency, according to statute or**
 8 **contractual obligation, demands immediate or prompt action by**
 9 **the district in construction of, adding to, or repairing works of**
 10 **improvement, the district:**

11 (1) may not defend that not enough money for the work has
 12 accumulated in the fund; and

13 (2) shall use the accumulation of money in the fund, including
 14 the proceeds of:

15 (A) borrowing;

16 (B) the collection of tax or assessments; or

17 (C) both borrowing and the collection of tax or
 18 assessments;

19 to discharge the obligation.".

20 Renumber all SECTIONS consecutively.

(Reference is to ESB 494 as printed March 21, 2003.)

Representative Liggett